

Message Text

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ACTION EB-11

INFO OCT-01 EA-11 ADP-00 L-03 EUR-25 CIAE-00 INR-10

NSAE-00 RSC-01 COME-00 TRSE-00 RSR-01 /063 W

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R 301028Z AUG 73

FM AMEMBASSY BANGKOK

TO SECSTATE WASHDC 6168

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EO 11652: N/A

TAGS: BGEN, TH

SUBJECT: ALIEN BUSINESS DECREE

REF: A. BANGKOK 10376 B. BANGKOK 2665

1. EMBASSY OFFICERS DELIVERED DIPLOMATIC NOTE TO MINISTRY FOREIGN AFFAIRS AUGUST 28 RAUERRING TO REJECTED APPLICATIONS OF TWO AMERICAN COMPANIES MENTIONED REF (A) (OGILVY AND MATHER AND GOVERNOR'S BAY CO. LTD.), AND REQUESTING MINISTRY'S ASSURANCE THAT, BECAUSE OF PROVISIONS OF AER TREATY, BOTH COMPANIES ENTITLED TO NATIONAL TREATMENT EVEN THOUGH THEIR APPLICATIONS HAD BEEN SUBMITTED FOLLOWING ENACTMENT OF ABD. REJECTIONS HAD BEEN BASED ON FACT THAT COMPANIES ACTIVITIES FALL UNDER CATEGORIES A AND B RESPECITVELY.

2. FORMAL NOTE WAS PREPARED AND DELIVERED AT SUGGESTION MFA, FOL-
LOWING SEVERAL INFORMAL MEETINGS WITH EMBASSY OFFICERS OVER PAST
MONTH OR SO, TO HELP RESOLVE IMPASSE WHICH HAD APPARENTLY BEEN
REACHED BETWEEN MFA AND MINISTRY COMMERCE CONCERNING TREATMENT OF
THESE COMPANIES. DURING DISCUSSION WHEN NOTE WAS DELIVERED, MFA
LAWYER INDICATED TO EMBASSY'S ECONOMIC COUNSELOR AND COMMERCIAL
ATTACHE HE WAS PERSONALLY OPTIMISTIC IT WOULD PERMIT MFA TO
INSTRUCT MINISTRY COMMERCE TO APPROVE APPLICATIONS. AMCHAM HAS BEEN
INFORMALLY INFORMED OF THIS. MFA OFFICIAL SUBSEQUENTLY INFORMED EM-
BASSY MEETING WITH MINISTRY COMMERCE SET FOR AUGUST 30.

3. DURING SAME DISCUSSION, ECON COUNSELOR ORALLY REMINDED MFA
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THAT CONFIRMATION HS NEVER BEEN RECEIVED TO OPINION EXPRESSED

IN EMBASSY'S NOTE LAST FEBRUARY (REF B) THAT AMERICAN COMAPNIES WHICH HAVE NOT REGISTERED UNDER ABD, BY VIRTUE OF AER TRETY PROVISIONS, SHOULD NOT RECEIVE DISCRIMINATORY TREATMENT AT SUCH TIME AS AER MAY BE TERMINATED. MFA LAWYER WHO WAS PRESENT STATED PERSONAL OPINION THAT (A) THERE IS NO CERTAINTY THAT AER TREATY WILL BE TERMINATED IN 1978; (B) ON PURELY LEGAL GROUNDS IN ABSENCE AER TREATY, RTG WOULD NOT BE OBLIGATED TO GRANT COMPANIES OF ANY ONE NATIONALITY NON-DISCRIMINATORY TREATMENT, NOTING THAT SEVERAL EUROPEAN COUNTRIES DISCRIMINATE AGAINST COMPANIES OF ONE NATIONALITY OR ANOTHER; AND (C) DECISION ON TREATMENT WOULD THUS NOT INVOLVE LEGALITIES BUT RATHER GOVERNMENT POLICY, I.E., WHAT TREATMENT WOULD BE IN THAILAND'S SELF-INTEREST IN TERMS OF INVESTMENT CLIMATE AND THE LIKE. HE NOTED THAT SINCE MFA WAS NOT RESPONSIBLE FOR DETERMINING SUCH POLICIES, EMBASSY MIGHT BE BETTER ADVISED TO DISCUSS THIS WITH SUCH OFFICIALS AS MINISTER OF INDUSTRY AND CHAIRMAN OF BOARD OF INVESTMENT.

4. MEANWHILE, NATION NEWSPAPER UNDER HEADLINE "U.S. CHAMBER WANTS ALIEN LAW RELAXED" HRAVE PROMINENT AND FACTUAL FRONTPAGE COVERAGE AUG 29 TO SEPARATE PROPOSAL SUBMITTED AUG 22 BY AMERICAN CHAMBER OF COMMERCE TO BOARD OF TRADE (OF WHICH AMCHAM IS MEMBER FOR AMENDMENT OF ABD. AMCHAM'S PROPOSAL WAS (A) THAT BOT PETITION FOR ROYAL DECREE ALLOWING THOSE BUSINESSES IN ANNEX A THAT EXISTED WHEN ABD WAS PASSED TO CONTINUE TO OPERATE WITH SAME CONDITIONS AS PROVIDED FOR COMAPNIES IN ANNEX B AND C; AND (B) THAT BOT PETITION FOR MINISTERIAL INSTRUCTIONS TO PERMIT COMAPNIES IN ANNEXES A,B, AND C TO INCREASE GROWTH AT RATE OF 40 PERCENT PER ANNUM, COMPOUNDED AND CUMULATIVE, WITH CONTINUED PROVISION FOR EXCEPTIONS IF CONDITIONS WARRANT THEM.

5. AMCHAM BOARD OF GOVERNORS INFORMED AMBASSADOR THAT WITH THESE CHANGES, ABD COULD BE LIVED WITH BY MOST AMERICAN COMPANIES. AMCHAM BELIEVES BOT SUB-COMMITTEE MIGHT REGARD THESE SUGGESTIONS FAVORABLY, BUT NOT SO SURE OF BOT AS A WHOLE. SO FAR NO PRESS COMMENTARY ON AMCHAM ACTION, BUT EXECUTIVE SECRETARY IS HOPEFUL SOME FAVORABLE EDITORIALS MIGHT FOLLOW NATION ANNOUNCEMENT.

6. TEXT OF NOTE AND AMCHAM PROPOSAL BEING TRANSMITTED BY POUCH.

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 30 AUG 1973
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: golinofr
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1973BANGKO13587
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: n/a
From: BANGKOK
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1973/newtext/t1973087/aaaaaemz.tel
Line Count: 107
Locator: TEXT ON-LINE
Office: ACTION EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators:
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: A. BANGKOK 10376 B. BANGKOK 2665
Review Action: RELEASED, APPROVED
Review Authority: golinofr
Review Comment: n/a
Review Content Flags:
Review Date: 05 DEC 2001
Review Event:
Review Exemptions: n/a
Review History: RELEASED <05-Dec-2001 by martinml>; APPROVED <04 MAR 2002 by golinofr>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: ALIEN BUSINESS DECREE
TAGS: BGEN, TH
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005